

## DR06: OH&S Design Responsibilities

### The Designer's Duty of Care

In Victoria, Australia, architects, engineers and other design professionals have a Duty of Care under Section 28 of the OHS Act 2004: "This duty is to make sure that the design does not pose risks to people when using the workplace for a purpose for which it was intended". In effect since 2006, it applies to all buildings except private residential dwellings. The key clause:

"A person who designs a building or structure or part of a building or structure who knows, or ought reasonably to know, that the building or structure or the part of the building or structure is to be used as a workplace must ensure, so far as is reasonably practicable, that it is designed to be safe and without risks to the health of persons using it as a workplace for a purpose for which it was designed."

Relevant review documents:

**"Designing Safer Buildings and Structures"**, which can be downloaded from WorkSafe Victoria > Safety and Prevention > Building and Structure Design ([www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au)).

If hot link doesn't work for the document below, enter the URL in your web browser:

[http://www.ohsrep.org.au/storage/documents/position\\_reasonably\\_prac\\_web.pdf](http://www.ohsrep.org.au/storage/documents/position_reasonably_prac_web.pdf)

### Australian Institute of Architects position

In 2008 the Australian Institute of Architects published a thoughtful paper outlining its position regarding the legislation, in part stating:

"The effect on workplace accidents and deaths during construction of 'upstream' factors, such as building design, has been receiving increasing attention in recent years. It has been wrongly concluded that safety in construction can be influenced more by the design of the building for its end-use than by the design of construction plant, work practices or the layout of the construction site.

"The Institute strongly disagrees that research supports such a causal relationship. Research has consistently failed to distinguish between the quite different 'design' activities involved. Product failures of construction equipment causing death or injury, or unsafe construction processes are not part of building design undertaken by architects."

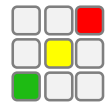
To read the full article, enter this URL in your web browser (hot-link not reliable):

<http://www.architecture.com.au/policy/media/Safe.pdf>

See also: <http://www.architecture.com.au/policy/pages/safe/summary.php>

### Queensland OH&S legislation

The Queensland Government passed legislation in 2007 that significantly raised the risk stakes for architects practicing there. A key aspect of this legislation is the definition of "Safe Design":



“The integration of hazard identification and risk assessment methods early in the design process to eliminate or minimise the risks of injury throughout the life of the product being designed. It encompasses all design including facilities, hardware, systems, equipment, products, tooling, materials, energy controls, layout, and configuration.”

This definition, importantly, covers construction as well as end use; that is, the designer is obliged to design in such a way as to make buildings safe to build. Relevant documents – (if hot link doesn't work, enter the URL in your web browser):

[http://www.worksafe.vic.gov.au/\\_data/assets/pdf\\_file/0015/8601/Victoria\\_Compliance\\_Framework\\_Handbook.pdf](http://www.worksafe.vic.gov.au/_data/assets/pdf_file/0015/8601/Victoria_Compliance_Framework_Handbook.pdf)

<http://www.deir.qld.gov.au/workplace/resources/pdfs/designersobligations.pdf>

## “Harmonisation” of OH&S legislation

In recent years there has been a push to bring Australian State and Territory legislation into accord across the country; this movement is going on currently. A 2012 article by Deborah Singerman summarizes the current state of these activities, which are described as “Implementation Chaos”: This article is well worth reading, and is a good summary of the current state of this “harmonisation” effort.

We had trouble creating a stable link to the article, but if you Google “Singerman Harmonisation” it is likely to be the top selection, under the <http://www.workplaceohs.com.au> URL. However, it is hard to locate by taking that route.

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